

**SPECIAL REDEVELOPMENT AGENCY MEETING  
JUNE 8, 1999**

The meeting called to order as the City Council at 10:18 a.m.

Roll Call Mathis, Wear, Kehoe, Stevens, Warden, Stallings  
McCarty, Vargas, and Mayor Golding

Michael T. Uberuaga, City Manager  
Casey Gwinn, City Attorney  
Leslie Devaney, City Attorney  
Charles Abdelnour, Secretary

The meeting adjourned as the City Council at 10:42 a.m.

The meeting reconvened as the Redevelopment Agency at 10:43 a.m.

**Consent-Adoption**

1. Approving resolution to:

Amend the Fiscal Year 1998-1999 Redevelopment Agency budget for the College Grove and San Ysidro project areas.

See Redevelopment Agency report dated May 19, 1999.

No one spoke in opposition to this item.

Motion by Member Warden to approve  
Second by member Mathis  
Vote: 9-0

**Redevelopment Agency Resolution number R-03001.**

2. Approving resolution to:

Amend the Annual Program Budget previously adopted for Fiscal Year 1998-1999 and authorizing a budget amendment in the amount of \$40,000 to the Horton Plaza City Loan Repayment Fund and repayment to the City of San Diego.

See Centre City Development Corporation report dated April 29, 1999.

Council Companion item no. 105.

No one spoke in opposition to this item.

Member Vargas stated for the record that Item 105 which is the Feasibility Study for a New Landmark Performing Arts Center for \$40,000. He said during our CDBG process, he put in \$10,000 from the district to go to that. Member Vargas said would like to change that from \$40,000 to \$50,000, and would be a change to Item No. 2 of the Redevelopment Agency.

Motion by Member Warden to approve as amended by Member Vargas  
Second by Member Mathis  
Vote: 9-0

**Redevelopment Agency Resolution number R-03002, City Council Resolution number R-291752.**

The meeting adjourned as the Redevelopment Agency at 10:45 a.m.

The meeting reconvened as the City Council at 10:46 a.m.

The meeting adjourned as the City Council at 12:04 p.m.

The meeting reconvened as the City Council at 2:11 p.m.

The meeting adjourned as the City Council at 2:12 p.m.

The meeting reconvened as the Redevelopment Agency at 2:13 p.m.

#### **ADOPTION**

#### **3. Approving resolution to:**

Approve acquisition of property by eminent domain for two ownership parcels - 535-055-02 & 03 and 535-055-01.

See Centre City Development Corporation report dated May 13, 1999.

Pam Hamilton, project manager, Centre City Development Corporation, gave a brief background of the proposed project.

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Item 3 (Continued)

Public Testimony - In Opposition

James Sandler, representing the Cushmans, owners of parcels 535-055-02 and 03. He stated, we are here hoping that we would not have to go to litigation. Negotiations are on-going, and the negotiations will succeed. Our presentation deals with whether or not the resolution of necessity should go forward as a matter of law. It is our contention that it should not. There are several requirements which are necessary before a resolution of necessity can be issued. One of those requirements is that an offer be made to the property owners under Section 72667.2 of the Government Code. Several things are required for that offer under the Government Code, we submit to you that those standards have not been met. The affect of that is the entire eminent domain proceeding may be

subject to a challenge. If it is, then we will have a hearing on that approximately 6 to 8 months after the complaint is filed. Our focus is on whether or not the offer was made in accordance with the legal standards. Mr. Sandler said several reasons why not; 1) the offer has a large hole in it, the offer made subject to environmental testings and environmental conditions which cannot be ascertain at this time. The offer is to indefinite, it is not a legal offer; 2) the offer is not in the amount of the appraisal, the appraisal amount did not have a set off for the environmental conditions; 3) the appraisal report that was provided contained no back up, gave us nothing to evaluate, it did not match up to the standards of the government code. We asked that you do not go forward with the resolution of necessity today, give us an offer that meets all of these standards, so that we can evaluate it, and go forward if necessary without the hearing in 6 to 8 months.

Mayor Golding asked staff to respond.

Pam Hamilton, said Linda Bartz, agency special counsel for condemnation proceedings will address the issues.

Linda Bartz, said she reviewed the five page letter that was sent to you outlining the objections with the offer. She said have reviewed the authority that was relied on in that letter, and reviewed the state law requirements for making a valid offer. Ms. Bart said what they are complaining about are appraisal issues, and there is case out of our fourth district, San Diego County Water Authority vs. Merider, about physical conditions of the property even after date of value. She this is an acceptable offer, the appraisal amount had a limiting condition, indicating that it was considering the property a clean, and have entered onto the property done a phase 1 and phase 2. The estimated amount of cleanup at this time between the agency and the property owners has been disclosed to them, and the estimate is \$205,000.

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##### Item 3 (continued)

##### Public Testimony - In Opposition

Lawrence Cushman, said we have been getting some of the information concerning contamination, and here is one that arrived at 12:03 p.m. today. Our problem is always been coming after the fact not before. That we need to be communicate with on a regular basis. That people would be working together with the property owners.

Member Mathis asked about communication.

Pam Hamilton said we made an offer to the Cushmans for the subject property on April 6, 1999. We did attempt to meet with the Cushmans and a meeting finally was held on May 12, 1999, with Mr. Allsbrook and Ms. Bartz. Ms. Hamilton said did not attend, that the Cushmans expressed an interest not to met again without a mediator. Ms. Bartz negotiated with Mr. Sandler with respect to who the mediator would be. That mediator schedule was determined, and June 29, 1999 is the next meeting. Ms. Bartz and Mr. Allsbrook would be happy to met with the Cushmans at anytime, but its their understanding, that they prefer to met with the mediator.

Member Mathis said Mr. Cushman showed a document that he just received today, and

is that a document that is germane to these proceedings, and why so late?

David Allsbrook responded that the document is germane to the proceedings today, it is a further analysis of the property that was recommended by our consultant at the May 12<sup>th</sup> meeting. We asked and received permission to do that work, and the Cushmans allowed that, and the report was just completed recently and transmitted to them immediately.

Pam Hamilton said this is a follow-up, there has been a complete phase 1 and phase 2 report done on the property. They were done as quickly, as we had a right of entry. Initially Mr. Cushman was not interested in giving us right of entry to the property. If you do not have a right of entry so that you can determine what the environmental conditions are, you're never going to be able to get an opinion of value. We were able to get the right of entry eventually, we did get on the site as quickly as we could. They have had the full phase 1 and phase 2 reports. The information faxed today was a follow-up as indicated, there was no additional information found in that follow-up and what that has already been provided previously.

Member Mathis asked in this procedure and process have we followed any procedure or process that this not a standard procedure or process associated with redevelopment or the condemnation issue? Is there anything unique about this case?

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##### Item 3 (Continued)

Pam Hamilton said there are two things, somewhat unique; 1) our initial offer did have a contingency in it, the receipt of the developers funds, funds from the Olson Company required pursuant to the DDA. We got the offer out to Mr. Cushman as quickly as we could, so that he would know what the number was. That developer condition has been removed for sometime; 2) it is unusual for us to have a mediator in real estate negotiations, but there is nothing that prohibits us from doing that, its nonbinding, and we agreed to follow their request to do so.

Member Mathis said in that particularly instance was that at the request of Mr. Cushman?

Ms. Hamilton said yes.

David Allsbrook said there are two items that need to be put on the record, there were two contingencies in the offer, the right of entry and the developer funding, for the record both of those contingencies have been removed.

Motion by Member Mathis to approve (with Stevens in opposition)

Second by Member Stallings

Vote: 8-1

**Redevelopment Agency Resolution number R-03003.**

##### **Adjournment**

The meeting adjourned as the Redevelopment Agency at 3:15 p.m.

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Secretary of the Redevelopment Agency  
of the City of San Diego, California